

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	
)	
PETER MICHALAK, D.O.)	STIPULATION AND CONSENT
Holder of License No. 1505 for the)	ORDER
practice of osteopathic medicine in the)	
State of Arizona.)	
_____)	

STIPULATION

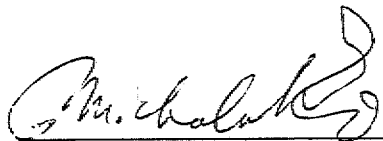
By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Peter Michalak, D.O. (hereinafter "Respondent"), the parties hereto agree to the following disposition to this matter.

1. Respondent acknowledges that he has read this Stipulation and the attached Consent Order; and, Respondent is aware of and understands the content of these documents.
2. Respondent understands that by entering into this Stipulation, he voluntarily relinquishes any rights to a hearing on the matters alleged as grounds for Board action or to seek judicial review of the consent order in state or federal court.
3. Respondent understands that this Stipulation and Consent Order will not become effective unless approved by the Board and signed by its Executive Director.
4. Respondent further understands that this Stipulation and Consent Order, once approved and signed, shall constitute a public records which will be disseminated as a formal action of the Board.
5. Respondent admits to the statement of facts and conclusions of law contained in the Stipulated Consent Order.

6. All admissions made by Respondent are solely for final disposition of this matter and any subsequent administrative proceedings or litigation involving the Board, Respondent and the State of Arizona; and, therefore, said admissions by Respondent are not intended for any other purpose or administrative regulatory proceeding or litigation in another state or federal court.

7. Respondent acknowledges and agrees that upon signing and returning this document (or a copy thereof) to the Board's Executive Director, he may not later revoke or amend this Stipulation or any part of the Consent Order, although said Stipulation has not yet been accepted by the Board and issued by its Executive Director, without first obtaining Board approval.

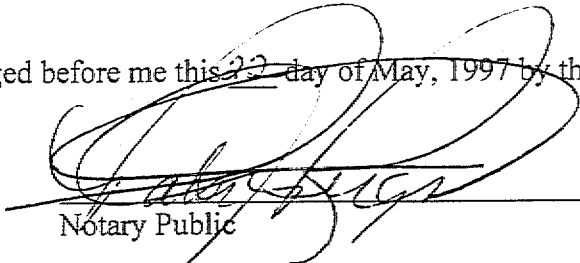
REVIEWED AND ACCEPTED this 22 day of May, 1997.



Peter Michalak, D.O.

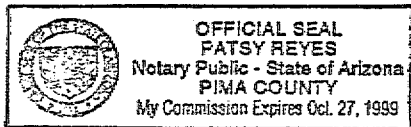
STATE OF ARIZONA)
) ss
County of ~~Maricopa~~ PIMA)

This instrument was acknowledged before me this 22 day of May, 1997 by the above-named individual.



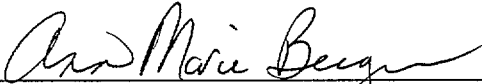
Notary Public

My Commission expires:



REVIEWED AND APPROVED as to form by counsel for Respondent on this ____ day of
May, 1997.

REVIEWED AND SIGNED this 27th day of May, 1997 for the Board by:



Ann Marie Berger, Executive Director
Arizona Board of Osteopathic Examiners in Medicine
and Surgery

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	
)	
PETER MICHALAK, D.O.)	CONSENT ORDER FOR PROBATION
Holder of License No. 1505 for the)	OF LICENSE
practice of osteopathic medicine)	
in the State of Arizona.)	
_____)	

FINDINGS OF FACT

1. Peter Michalak, D.O., (hereafter "Respondent"), is a licensee of the Board and the holder of License No. 1505.

2. On November 5, 1996 the Board received a complaint alleging that Respondent was attempting to acquire controlled substances for personal use under fraudulent means.

3. On November 25, 1996 the Board held a public meeting by telephone conference call to review the information and allegation regarding Respondent. The Board, at that time, issued an Order for Respondent to provide necessary patient records, urine drug screens and appear before the Board at their December 7, 1996 public meeting.

3. Respondent acknowledged on November 29, 1996 that he was currently addicted to codeine and Ativan and was taking various quantities on a daily basis. On December 3, 1996 Respondent voluntarily admitted himself to West Center Rehabilitation Center for inpatient rehabilitation treatment regarding his substance abuse addiction.

4. Respondent requested, due to his admitted addiction and attempts to acquire controlled substances illegally, that the Board allow him to enter into a Stipulated Consent Order for

suspension of his license until such time it is determined that Respondent is healthy enough to be placed under a probationary order for monitoring and rehabilitation. Respondent and Board entered into a Stipulated Consent Order for Suspension of License on December 19, 1996.

5. Having completed inpatient and outpatient treatment for rehabilitation of his admitted addiction, Respondent requested that the Board release his license from suspension and that he enter into a Stipulated Consent Order for Probation for a five-year period to include rehabilitation and monitoring. In public session, the Board voted on the 3rd day of May, 1997 to authorize the Board's Executive Director to sign and issue a Stipulated Consent Order regarding Respondent which follows hereinafter.

CONCLUSIONS OF LAW

1. Pursuant to Arizona Revised Statutes § 32-1800, et seq., the Arizona Board of Osteopathic Examiners in Medicine and Surgery has subject matter and personal jurisdiction in this matter.

2. The Board has the authority to enter into a stipulated order for final disposition of this case, pursuant to A.R.S. § 41-1061(D), A.R.S. § 32-1855 and A.R.S. § 32-1861(D).

3. The Respondent engaged in unprofessional conduct as defined in A.R.S. § 32-1854 by violating federal and state statutes and regulations concerning the use, prescription and/or possession of controlled substances.

ORDER

Pursuant to the authority vested in the Board, **IT IS HEREBY ORDERED THAT:**

1. Peter Michalak, D.O. ("Respondent" is placed under probation for five (5) years and shall comply with the terms and conditions of probation as set forth herein:

2. From the date of this Order, Respondent shall obtain psychiatric or psychological treatment by a therapist(s) who is either a licensed psychiatrist and/or psychologist and is selected by Respondent and approved by the Board. Respondent shall comply with the therapist recommendation for the frequency of therapy treatment sessions. Respondent shall inform the Board by letter (mailed within ten days of the date of this Order) of the therapist's name; and, Respondent shall undertake and fully cooperate with a program of treatment established by the therapist. In the event Respondent changes therapists, he shall give the Board written notice within ten (10) days of said action. Respondent shall not discontinue or reduce the frequency of psychotherapy sessions until he has submitted a written request to the Board and obtained Board approval.

3. Respondent's therapist(s) shall receive a copy of this Order and Board Staff shall cooperate with and disclose all relevant information in the Board's files concerning Respondent. The treating therapist shall be directed by Respondent to send to the Board a written progress reporter every month for the first six (6) months, then every three (3) months for the remainder of the probation; and Respondent, shall waive any confidentiality concerning his psychotherapy in order that the Board may receive full disclosure of information. The expense of the aforementioned therapy and the reports to the Board by Respondent's therapist shall be the sole responsibility of the Respondent.

4. Respondent shall provide a copy of this Order and any subsequent Orders to all facilities where Respondent is currently (or subsequently) employed as a physician and/or has (or subsequently receives) privileges to engage in the practice of medicine; and, Respondent shall continue to make the aforementioned disclosure and provide copies of this Consent Order until the expiration of this Order.

5. Respondent may have his license to practice as an osteopathic physician restricted, suspended or revoked by the Board in the future if:

- (A) The Board finds that Respondent does not have the requisite mental, physical and emotional fitness to safely continue the practice of medicine; or,
- (B) There are new grounds for finding unprofessional conduct concerning Respondent; or,
- (C) Fails to comply fully with the terms and conditions of this Order.

6. Respondent shall abstain completely from the consumption of alcoholic beverages; and, Respondent shall not consume illicit drugs or take any controlled substances (i.e., prescription only drugs), unless such medication is prescribed for him by his treating physician. Respondent shall maintain a monthly log (for the duration of probation) of all prescription only drugs taken by him and such log shall include the following information:

- (a) the name of the medication;
- (b) name of prescribing physician;
- (c) reason for the medication.

At the first of each month, Respondent shall report by letter to the Board whether or not he is taking any prescription only medication and, if so, a copy of his log reflecting the above information.

7. Respondent shall also, as part of his probation: (A) submit to and cooperate in any independent medical or psychological evaluation that is ordered by the Board for Respondent and conducted by the Board's designated physician and/or psychologist which shall be paid for by Respondent; and (B) appear before the Board, upon receipt of a request by written or telephonic

notification from the Board's executive director which shall be given at least five (5) days prior to the Board meeting; and, (C) submit to random biological fluid testing and promptly provide (i.e., within sixty (60) minutes of notification) required biological fluids for testing and said testing shall be done at the Respondent's expense.

8. Respondent shall participate in a minimum of two (2) self-help meetings per week through such organizations as A.A., N.A., S.A. and doctor's Caduceus group.

9. Respondent shall not engage in the practice of medicine for an amount of time in a seven day week beginning at 12:01 a.m. Sunday of each week and ending on Saturday, midnight to not exceed a thirty-six hour work week and a twelve hour work day.

10. This Order shall supersede and replace all prior orders of the Board concerning Respondent.

11. In the event Respondent ceases to reside in Arizona, he shall give written notice to the Board of his new residence address within twenty (20) days of moving; and, the terms and duration of probation may be stayed by the Board until Respondent returns to Arizona.

12. Respondent shall continue to meet all licensing requirements such as continuing medical education and renewal requirements including applicable fees pursuant to A.R.S. § 32-1825.

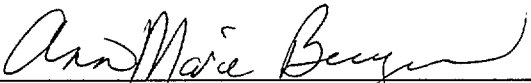
13. The Board's Executive Director shall send correspondence to the appropriate state and/or federal law enforcement agency disclosing information in the Board's possession which may establish criminal misconduct by Respondent, i.e., illicit use of controlled substances and obtaining controlled substances illegally.

14. Respondent's failure to comply with the requirements of this Order shall constitute unprofessional conduct as defined at A.R.S. § 32-1854(26), as amended, and may be considered as

grounds for further disciplinary action (e.g., suspension or revocation of license) in the event that Respondent fails to comply with any of the requirements of this Order.

ISSUED this 27th day of May, 1997.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: 
Ann Marie Berger, Executive Director
141 E. Palm Lane, Suite 205
Phoenix AZ 85004
Telephone: (602) 255-1747 (ext. 22)

Served by personal service or
sending U.S. certified mail
this 27th day of May, 1997 to:

Peter Michalak, D.O.
5520 N. Suncrest
Tucson AZ 85718

Copy mailed this 27th day of May, 1997
to:

Blair Driggs
Assistant Attorney General
Office of the Attorney General
1275 W. Washington
Phoenix AZ 85007 (w/enclosure)

Arizona Board of Pharmacy
5060 N. 19th Ave., Suite 101
Phoenix AZ 85015 (w/enclosure)

Drug Enforcement Administration
Attention: Diversion Section
3010 N. 2nd St
Phoenix AZ 85012 (w/enclosure)

